

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Revision No. 111 of 2016

1. Sudesh Rakesh Tirkey, Son of Late Justin Tirkey, resident of “Anu Premus Smriti Bhawan”, Village – Jorar, Police Station – Namkom, District – Ranchi.
2. Ajay Tirkey, Son of Late Bandhan Oraon, residing near Kantatoli Chowk, Village – Konka, Police Station – Lower Bazar, District – Ranchi.
3. Ranjit Toppo, Son of Late Gouri Shankar Toppo, resident of Nayatoli, Village – Konka, Police Station – Lower Bazar, District – Ranchi.
4. Moin Ansari, Son of Late Abdul Majid, resident of Hargari Road, Pathal Kudwa, Police Station – Lower Bazar, District – Ranchi.
5. Parwej Akhtar @ Parwej Ahmad, Son of Late Md. Salim, resident of B.K. Lane, Kalaltoli, Police Station – Lower Bazar, District – Ranchi.
6. Sajjad Akhtar, Son of Sri Md. Jamaludden, resident of Ramjan Colony, H.B. Road, Police Station – Lalpur, District – Ranchi.
7. Lalan Parwej, Son of Late Md. Muslim, resident of Kalisthan Road, Police Station – Daily Market, District – Ranchi.

.... **Petitioners**

Versus

1. The State of Jharkhand
2. Satyam Kumar, Son of Late Jagdish Prasad Sahu, resident of Satyam Niketan, Shivji Lane, Harmu Road, P.S. – Argora, District – Ranchi.

.... **Opp. Parties**

Coram: HON’BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

For the Petitioners : Mr. Rahul Kumar Das, Advocate
For the State : Mr. Shiv Shankar Kumar, A.P.P.

JUDGMENT

CAV On Dated- 24.04.2024

Pronounced On - 28.06.2024

Heard learned counsel for the parties.

2. The instant criminal revision is directed against the order dated 15.12.2015 passed by learned Additional Judicial Commissioner-VI, Ranchi in the Sessions Trial No. 239 of 2015, whereby and whereunder the learned Additional Judicial Commissioner has dismissed the discharge petition dated 20.06.2015 under Section 227 of the Cr.P.C. filed by the petitioners and fixed the case for framing of charge against the petitioners.

3. It is submitted by learned counsel for the petitioners that Chutia P.S. case No. 16 of 2008 has been instituted against the petitioners by the informant Satyam Kumar registered under Sections 147, 148, 448, 307 and 386 of the Indian Penal Code and also under Section 27 of the Arms Act. As per F.I.R., the allegation against the petitioners is that about two years ago, the informant had taken land measuring 2.07 acres, appertaining to Plot No. 268 under Khata No. 225 of Village- Seram on lease from Paran Munda @ Champa Munda. The informant has also taken power regarding the three houses build over the said land. In one of the houses, the informant used to reside and in other two houses the family of Champa Munda @ Paras Munda and Anand Munda used to reside. It is further alleged that on 05.02.2008 at about 8:00 PM, the informant deputing his men to

take care of his goods went to his house at Harmu Road. The informant has further stated that on 06.02.2008, his men came to him and stated that Sudesh Tirkey, Moin Ansari, Sajjad, Parwej, Lalan, Ranjit Toppo along with 25-35 persons armed with lathi, gun & pistol came and ousted them from the house. On protest, Sudesh Tirkey with intention to cause murder fired from his pistol, but he jumped over to the other side of the Wall to save his life and escaped from shot of fire arm. It was also disclosed by men of informant that miscreants also threatened Champa Munda and Anand Munda to vacate the houses, otherwise they will be burnt alive. The miscreants also loaded goods on truck and taken away and houses were also demolished using dozers. The informant has also claimed that he went to place of occurrence and found the houses were demolished by the accused persons and one Ajay Tirkey was holding pistol on his hand, who threatened him to take his life, then the informant fled away. It is also alleged that Sudesh Tirkey has demanded ransom of Rs. 10,00,000/- from the informant. Hence, the F.I.R.

4. It is further submitted that after investigation of this case, charge sheet has been submitted by the police against the petitioners vide C.S. No. 116/2014 dated 31.07.2014 for the offence under Sections 147, 148, 448, 307 and 386 of the Indian

Penal Code and Section 27 of the Arms Act. Cognizance was also taken by the concerned Court and the case was committed to the court of Sessions for trial.

5. It is further submitted that the case has been transferred for trial and disposal by the Sessions Judge to the court of learned Additional Judicial Commissioner-VI, Ranchi, where an application under Section 227 of the Cr.P.C. dated 20.06.2015 was filed by the petitioners stating inter alia that during investigation all the 14 witnesses were interrogated by the I.O., but none of the witnesses have supported the prosecution story as contained in the FIR, rather 10 witnesses have completely denied the alleged occurrence. The investigation was conducted in a very casual and perfunctory manner and dragged to six months for its completion and finally without any cogent evidence charge-sheet was submitted against the petitioners. Most of the accused persons were granted anticipatory bail in this case.

6. It is further submitted that on behalf of the petitioners that it was impressed upon before the concerned trial court that none of the offences, as alleged in the FIR and the charge sheet are constituted in the present case against the petitioners on the basis of materials available on record. The full identity and address of the petitioners were not disclosed in the FIR and no step was

taken by the I.O. to ascertain the identity of petitioners as a culprit and participation in this case. No fire arm or any particles of empty cartridges were seized from the place of occurrence. Admittedly, there was land dispute between the parties, therefore, false case has been instituted. Neither any injury has been found on any person nor the use of fire arm has been corroborated during investigation to attract the offence under Section 307 of the I.P.C. and Section 27 of the Arms Act. No amount of extortion money has ever been paid by the informant or any other person to the petitioners constituting offence under Section 386 of the I.P.C.

7. It is further submitted that in the instant revision, notice was sent to the informant, which was received by his brother, but none appeared to contest this revision. The impugned order is devoid of any reason and no specific finding has been recorded on the points raised on behalf of the petitioners. Hence, impugned order is liable to be set aside and this revision may be allowed.

8. On the other hand, learned APP appearing for the State has vehemently opposed the contentions raised on behalf of the petitioners and submitted that the petitioners have been charge sheeted for very serious and heinous offence. Cognizance of the offence was also taken after submission of charge sheet. The case is exclusively triable by the court of Sessions. Hence, committed

to the court of Sessions. The petitioners have taken no step either challenging the cognizance order or for quashing the proceedings under Section 482 of the Cr.P.C. They have taken plea concerning their own defence in the case, which requires to be substantiated at the time of trial of the case through evidence. The learned trial court has assigned special reasons that the probable defence of the petitioners could not be decided at the stage of hearing on charge. Therefore, the impugned order does not suffer from any irregularity or illegality which is just and proper and no interference is required in this case. This revision has no merits and fit to be dismissed.

9. I have considered the rival contentions raised on behalf of the parties and perused the record along with impugned order. It appears that the points raised as a basis of discharge of the petitioners pertains to their defence in the case. The truth or falsify of the case could be decided only at the trial and probable defence of the petitioners cannot be accepted at the initial stage of proceeding, which requires to be substantiated during trial. It appears that the learned trial court has recorded sufficient reasons while rejecting the discharge petition of the petitioners.

10. In view of aforesaid discussion and reasons, I do not find any illegality or irregularity to call for any interference by way of

this revision, which stands dismissed.

11. Trial court is directed to proceed with the trial and expedite the same without unnecessary adjournments.

12. Let a copy of this judgment along with trial court record be sent to the concerned court immediately. Judgment must be communicated through 'FAX'

(Pradeep Kumar Srivastava, J.)

Jharkhand High Court, Ranchi

Dated : 28/06/2024

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